Supreme Court of the United States

IN THE

Supreme Court of the United States

OCTOBER TERM, 1960

No. 816

CHARLES R. GODDARD, ET AL.,
Petitioners.

v.

DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY AND THE UNITED STATES,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITIONERS' REPLY BRIEF

QUESTIONS PRESENTED

The question framed in the Respondents' brief, p. 1, erroneously implies:

1. That the delays complained of were limited to delays in condemnation proceedings themselves, whereas those delays included undue delays in performing the duty of instituting the proceedings.

2. That Petitioners' complaints were limited to misrepresentations and delays in condemnation proceedings, whereas the admitted allegations of the complaints were to the effect that Defendants not only delayed for the purpose of acquiring the property for less than fair value, but took other proceedings for that same purpose.

3. That Petitioners have an adequate remedy to recover the full value of the damaged property in condemnation proceedings, whereas this proceeding is Petitioners' only hope for justice.

The first paragraph of Respondents' Statement on page 2 is incorrect of record and in fact. Petitioners Mills have lost their property because of the actions complained of, and no condemnation proceeding can repay them. Although it is not a matter of record in this case, Petitioner Goddard was awarded some compensation for one property in the case mentioned in the brief. However, that property was valued in those proceedings *as of the date of the filing of the Declaration of Taking in the condemnation proceeding*. The damage complained of occurred before this date and reduced the amount received to a figure way below the price he actually paid for the property. It is true that the compensation for two of Goddard's properties, the Fourth Street properties, were settled by stipulation filed in the proceeding to condemn those two properties; and that this stipulation provided that the settlement included the damage to those two properties complained of in these cases. However, the stipulation expressly provided that the settlement did not affect Goddard's claims regarding any other properties, nor the Mills' claims. Although not of record, the statement that one of the properties was pur-

chased is true, but that property was sold in the damaged condition caused by the actions of Defendants, and Goddard has not been compensated for that damage. Petitioners Goddard and Mrs. Love cannot receive just compensation in the condemnation proceedings pending because the statute makes it mandatory that the Jury view the properties in their devastated condition; and that the property be valued as of the date of filing of the Declaration of Taking.

It is true that this Court in *Berman v. Parker*, 348 U.S. 26, held that administrative decisions as to the area and property to be taken were not reviewable. However, this Court contemplated that the rights of property owners to just compensation would be preserved as is indicated by the following language at p. 36 of that Opinion:

> "The rights of these property owners are satisfied when they receive that just compensation which the Fifth Amendment exacts as the price of taking."

Sec. 2679 of the Tort Claims Act is limited by its express language to claims cognizable under that Act. It withdraws the "sue and be sued" clause as to those claims only and none other.

The failure of Goddard's appeal in the condemnation case reported in 274 F. 2d 753, cited at p. 5 et seq. of Respondents' brief, affirms the fact that the remedy to correct the abuses of the employees of the Agency does not lie in the condemnation cases. One of Goddard's contentions in that case was that the property should have been valued as of a date before the damage done by the Agency's undue delays and other proceedings had reduced the value of the property. The Court of Appeals affirmed in a *per curiam* decision without opinion.

CONCLUSION

The property owners in these "slum clearance" programs are not getting fair value for their property. Cloaked beneath the constructive nature and popularity of the program, those intrusted with its enactment are trampling on the rights of thousands. Only this Court can right the wrongs done these people, and we appeal to this Court to do so.

Respectfully submitted,

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